IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 1482 OF 2005

DATED: 17.9.2007

Between:

G Lachaiah petitioner

And

The APSRTC
Rep by its Managing Director,
Musheerabad, Hyderabad and ors Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 1482 OF 2005

ORAL ORDER:

The present writ petition is filed seeking a writ of Certiorari to call for the records relating to the award passed by the Labour Court in I.D. No. 84 of 2003 and to set aside the same and direct the respondents to reinstate the petitioner into service with all consequential benefits.

The petitioner herein was employed in the respondent corporation as conductor. While so, based on the check conducted on 11.2.2001, a charge sheet dated 26.2.2001 was issued alleging six charges with regard to cash and ticket irregularities, misconduct and not cooperating with the checking officials. Having not satisfied with the explanation offered by the petitioner, an enquiry was ordered. The disciplinary proceedings initiated against the petitioner ended in removal of the petitioner vide final order dated 17.8.2001. The appeal and review submitted by the petitioner were dismissed by orders dated 21.12.2001 and 7.1.2003 respectively. Aggrieved by the same, the petitioner raised an industrial dispute in I.D., No. 84 of 2003 on the file of the Labour Court, Godavarikhani. The Labour Court on consideration of the matter and the evidence available on record, dismissed the petition confirming the punishment of removal. Hence, the present writ petition.

Learned counsel for petitioner Mr S M Suban, mainly contended

that petitioner is innocent and punishment imposed upon him is disproportionate to the gravity of the offence alleged against him and sought a direction to the respondents to reconsider his case and to appoint him as a fresh conductor on humanitarian considerations.

On the other hand, learned standing counsel for respondents reiterated the contentions raised in the counter affidavit filed on behalf of respondents and submitted that the petitioner has not made out a case warranting interference of this Court. It is further submitted that there is no procedural irregularity and the past record of the petitioner is also bad and the Labour Court taking into consideration the evidence on record and the past record of the petitioner has rightly confirmed the removal order.

A counter affidavit is also filled on behalf of the respondents referring to the past record of the petitioner that he was censured for seven times, annual increments were deferred for nine times and removed from service for cash and ticket irregularities on one occasion and reinstated in terms of the orders of the Appellate Authority. It is further stated that since serious cash and ticket irregularities were noticed, petitioner was issued with a charge sheet dated 26.2.2001 and an enquiry was ordered into the charges wherein the charges leveled against the petitioner were proved, based on which, a show cause notice was issued and after considering the explanation of the petitioner he was removed from service by order dated 21.7.2001, which was confirmed by the Appellate and Review authorities and also by the Labour Court.

Heard learned counsel for petitioner, learned Standing Counsel for respondent corporation and perused the award under challenge.

The parameters and scope of judicial review of this Court under

Article 226 of the Constitution of India to issue a writ of Certiorari are limited to—firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. The law is well settled that this Court does not act as an appellate authority and reappraise the evidence while exercising certiorari jurisdiction. It is within these parameters, the impugned award of the Labour Court, is to be examined.

In the present case, the proved charge against the petitioner is re-issue of the tickets and also non issue of tickets after collecting amounts from the passengers, for which the disciplinary authority imposed the punishment of removal from service, which was confirmed by the Appellate Authority, Review Authority and also the Labour Court. The Labour Court on consideration of the matter and particularly having regard to the documentary evidence available on record declined to interfere with the punishment and passed an award dismissing the petition. In view of the judgments of the Apex Court in **REGIONAL MANAGER, RAJASTHAN SRTC Vs SOHAN LAL**[1], **DIVISIONAL CONTROLLER, KSRTC (NWKRTC) Vs. A.T.MANE** [2], it is well settled that once a domestic tribunal based on evidence comes to a particular conclusion, normally it is not open to the Appellate Tribunals and Courts to substitute their subjective opinion in the place of the one arrived at by the domestic tribunal. The petitioner herein has not made out a case that the punishment of removal from service is wholly disproportionate to the misconduct proved.

For the foregoing reasons, the writ petition fails and is liable to be dismissed. Accordingly, the writ petition is dismissed. No costs.

N.V.RAMANA,J

17.9.2007

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THE HON'BLE MR JUSTICE N.V. RAMANA

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[1] (2004) 8 SCC 218
[2] 2005 (3) SCC 254